

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
Request for Review by St Thomas The Apostle School)	
Of Decision Of)	
Universal Service Administrator)	
)	
St Thomas The Apostle School)	
Chicago, Illinois)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	CC Docket No. 96-45

(1) A Statement setting forth St Thomas The Apostle School's interest in the matter presented for review.

In this matter presented for review, St Thomas The Apostle School is the sole appellant organization. St Thomas The Apostle School is seeking an Appeal to the Federal Communications Commission. St Thomas The Apostle School wishes to seek consideration of the Universal Administrative Service Company's decision to deny our original appeal, released January 15th, 2013.

(2) A full statement of relevant, material facts with supporting affidavits and documentation.

Appellant / Organization Name: ST THOMAS THE APOSTLE SCHOOL
Contact Person Name: Stephen Weiss
Contact Mailing Address: 233 S. Wacker Dr. Suite 3430, Chicago, IL
Contact Phone Number: 312-850-4134
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Contact Email Address: sweiss@colemangroupconsulting.com

Funding Year: 2012
Dates of FCDL Decisions: 7/10/12
Billed Entity Name: ST THOMAS THE APOSTLE SCHOOL
Billed Entity Number: 70222
Form 471 Application Numbers: 842430

Funding Request Number: 2286051
Original Service Provider: AT&T Mobility
Original SPIN Code: 143025240
New Service Provider: Sprint Spectrum, L.P.
New SPIN Code: 143006742
Committed Commitment Request: \$1,200.00

We would like the Commission to grant a Waiver to the Administrator's Decision on our SPIN Change Request as follows:

- You requested a SPIN Change for FRN 2286051 from SPIN 143025240 to 143006742. However, your request is denied because you did not have a legitimate reason for a SPIN change to SPIN 143006742.

Specifically, as part of your SPIN change request, a legitimate reason to change providers is required (e.g. data entry error, merger or acquisition, intra-company SPIN change, breach of contract between the applicant and its original service provider or the original service provider's inability to perform the requested services). Because the specified reason for a SPIN Change is not considered a legitimate reason, your SPIN Change request to SPIN 143006742 is denied.

We would like to ask USAC to make an exception for ST THOMAS THE APOSTLE SCHOOL for the following reasons:

Electronic Code of Federal Regulations C.F.R. 47 §1.3 states that The Commission may waive any provision of its rules for good cause shown. We will demonstrate (i) special circumstances that warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.

- (i) Special circumstances that warrant a deviation from the general rule

[\[http://www.fcc.gov/guides/portability-keeping-your-phone-number-when-changing-service-providers\]](http://www.fcc.gov/guides/portability-keeping-your-phone-number-when-changing-service-providers)

Under the Federal Communications Commission's (FCC's) "local number portability" (LNP) rules, so long as you remain in the same geographic area, you can switch telephone service providers, including interconnected Voice over Internet Protocol (VoIP) providers, and keep your existing phone number. If you are moving from one geographic area to another, however, you may not be able to take your number with you. Therefore, subscribers remaining in the same geographic area can switch from a

wireless, wireline, or VoIP provider to any other wireless, wireline or VoIP provider and still keep their existing phone numbers

(ii) Deviation from the general rule will serve the public interest.

St. Thomas the Apostle School is dedicated to teach their students in order for them to grow spiritually, intellectually, physically, emotionally, and socially in a safe, loving Catholic environment. The classroom size at St. Thomas the Apostle is a small group instruction that is available to individualize learning needs within a Christian atmosphere that contains mutual courtesy and respect towards each other. The students are required to have and maintain high expectations in the rigorous academic curriculum that the school provides. The communication of parents with the teachers and the staff is highly important in order for a successful community.

(3) The question presented for review, with reference, where appropriate, to the relevant Federal Communications Commission rule, Commission order, or statutory provision.

The USAC Website (as well as the Copan Decision [FCC 00-100]¹) states that The Federal Communications Commission (FCC) permits operational SPIN changes when:

1. The SPIN change is allowed under the applicant's state and local procurement rules
2. The SPIN change is allowable under the terms of any contract between the applicant and its original service provider
3. The applicant has notified its original service provider of its intent to change service providers
4. There is a legitimate reason to change providers (e.g. breach of contract or the service provider is unable to perform the requested services)
5. The newly selected service provider received the next highest point value in the original bid evaluation (If the applicant did not receive multiple bids, the applicant must submit a statement explaining that it received only one or no bids²)

¹ Request for Review by Copan Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of the of Directors of the National Exchange Carrier Association, Inc. CC Docket Nos. 96-45 and 97-21, 15 FCC Rcd 5498, FCC 00-100

² A National Broadband Plan For Our Future, Sixth Report and Order, CC Docket No. 02-6; GN Docket No. 09-51, FCC 10-175 para. 91

1. The SPIN change is allowed under the applicant's state and local procurement rules.

In Illinois, any individual procurement of supplies or services other than professional or artistic services, not exceeding \$10,000 and any procurement of construction not exceeding \$30,000 may be made without competitive sealed bidding. Procurements shall not be artificially divided so as to constitute a small purchase under this Section. Therefore changing wireless service providers for St Thomas the Apostle School is acceptable under state and local procurement rules.

2. The SPIN change is allowable under the terms of any contract between the applicant and its original service provider.

The relationship between St Thomas the Apostle School and AT&T Mobility was already in a month-to-month non-contract status at the time they switched service providers from AT&T Mobility to Sprint. Therefore the SPIN Change should be allowable between St Thomas the Apostle School and AT&T Mobility.

3. The applicant has notified its original service provider of its intent to change service providers

St Thomas The Apostle School began the SPIN Change Process after they had moved their lines over to Sprint. AT&T Mobility was aware that the lines had been moved to Sprint by the time the SPIN Change was filed.

4. There is a legitimate reason to change providers (e.g. breach of contract or the service provider is unable to perform the requested services)

The maintenance engineers at St Thomas The Apostle School were the primary users of the cell phones. They are frequently out on the property fixing different components of multiple buildings. St Thomas the Apostle School frequently would attempt to contact the maintenance engineers while they were out on the property, and many times they were simply unable to reach them.

5. The newly selected service provider received the next highest point value in the original bid evaluation (If the applicant did not receive multiple bids, the applicant must submit a statement explaining that it received only one or no bids)

A National Broadband Plan For Our Future, Sixth Report and Order [FCC 10-175] states the reasoning behind this component of the regulations surrounding operational SPIN changes. The order says that the applicant might identify a service provider as the winning bidder but intend to change providers through the SPIN change process as soon as USAC issues a funding commitment. A service provider could circumvent the competitive bidding process by offering a new, lower price for products and services which have already been competitively bid and are part of existing contracts. In this case, St Thomas The Apostle School had no intention of taking advantage of artificially going around the competitive bidding process. Their primary intention was to find cellular phone service that worked well on their property and inside of their buildings.

(4) A statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought.

St Thomas The Apostle School seeks relief from the Universal Service Administrator's decision, released January 15th, 2013. In this decision, the Universal Service Administrative Company (USAC) denied St Thomas The Apostle School's request to fund FRN 2286051 on the grounds that we did not have a legitimate reason for the SPIN change to SPIN 143006742.

Electronic Code of Federal Regulations C.F.R. 47 §1.3 states that The Commission may waive any provision of its rules for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest³. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis⁴. Consistent with precedent⁵, we have demonstrated (i) special circumstances that warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.

Once again thank you for considering granting this Waiver request for St Thomas The Apostle School. Please let me know if you have any questions. Thank you very much for all of your help. We greatly appreciate your time, effort, patience and continued support.

³ *Northeast Cellular Telephone Co. v FCC*, 897 F.2d 1164, 1168

⁴ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159

⁵ *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-12